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7 *TESLA, INC.*

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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12 OWEN DIAZ,

13 Plaintiff,

14 vs.

15 TESLA, INC. DBA TESLA MOTORS, INC.,

16 Defendant.

Case No. 3:17-cv-06748-WHO

**[PROPOSED] ORDER GRANTING  
DEFENDANT'S MOTION FOR  
JUDGMENT AS A MATTER OF LAW,  
NEW TRIAL AND/OR REMITTITUR  
PURSUANT TO FEDERAL RULES OF  
CIVIL PROCEDURE 50 AND 59**

**Date: January 19, 2022**

**Time: 2 p.m.**

**Place: Courtroom 2, 17th Floor**

**Judge: Hon. William H. Orrick**

**[PROPOSED] ORDER**

Now before the Court is Defendant Tesla, Inc. DBA Tesla Motors, Inc.'s ("Tesla") Motion for Judgment as a Matter of Law, New Trial, and/or Remittitur Pursuant to Federal Rules of Civil Procedure 50(b) and 59 ("Motion"). Upon consideration of the papers filed in support of and in opposition to the Motion, this Court concludes as follows.

**[Granting Judgment as a Matter of Law]**

Plaintiff Owen Diaz has failed to establish a legally sufficient basis for a reasonable jury to decide in his favor. Fed. R. Civ. P. 50(b). Accordingly, the Court grants judgment as a matter of law as to plaintiff Owen Diaz's claims for (1) racial harassment in violation of 42 U.S.C. § 1981; (2) failure to prevent racial harassment in violation of 42 U.S.C. § 1981; and (3) negligent supervision and retention of an employee under California state law.

IT IS THEREFORE ORDERED that Tesla's motion for judgment as a matter of law is GRANTED.

**[In the Alternative, Granting a New Trial]**

The jury's verdict was against the weight of the evidence. Fed. R. Civ. P. 59. Accordingly, the Court grants a new trial as to plaintiff Owen Diaz's claims for (1) racial harassment in violation of 42 U.S.C. § 1981; (2) failure to prevent racial harassment in violation of 42 U.S.C. § 1981; and (3) negligent supervision and retention of an employee under California state law.

IT IS THEREFORE ORDERED that Tesla's motion for a new trial is GRANTED.

**[In the Alternative, Denying a New Trial Conditioned on Remittitur]**

The jury's damages award was grossly excessive. The Court finds that the maximum amount of damages sustainable by the proof is \$ \_\_\_\_, and remittitur is therefore appropriate in that amount.

IT IS THEREFORE ORDERED that Tesla's motion for a new trial is DENIED, conditioned on plaintiff Owen Diaz's acceptance of a remittitur to an award in that amount.

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Dated: \_\_\_\_\_

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The Honorable William H. Orrick  
United States District Judge